

SENATE BILL NO. 48

INTRODUCED BY HARRINGTON

A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE CLASS EIGHT PROPERTY TAX PROVISION THAT WOULD HAVE PHASED-OUT THE TAXATION OF CLASS EIGHT PROPERTY CONTINGENT ON A CERTAIN INCREASE IN STATE WAGES AND SALARIES; INCREASING THE CAP ON THE EXEMPT AGGREGATE MARKET VALUE OF CLASS EIGHT PROPERTY FROM \$5,000 TO \$20,000; AMENDING SECTIONS 15-6-138 AND 15-6-201, MCA, SECTION 27, CHAPTER 285, LAWS OF 1999, SECTION 31, CHAPTER 285, LAWS OF 1999, AND SECTION 5, CHAPTER 577, LAWS OF 2003; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-138, MCA, is amended to read:

"15-6-138. (Temporary) Class eight property -- description -- taxable percentage. (1) Class eight property includes:

(a) all agricultural implements and equipment that are not exempt under 15-6-201(1)(bb);

(b) all mining machinery, fixtures, equipment, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(c) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools that are not exempt under 15-6-201(1)(r), and supplies except those included in class five;

(d) all manufacturing machinery, fixtures, equipment, tools, except a certain value of hand-held tools and personal property related to space vehicles, ethanol manufacturing, and industrial dairies and milk processors as provided in 15-6-201, and supplies except those included in class five;

(e) all goods and equipment that are intended for rent or lease, except goods and equipment that are specifically included and taxed in another class;

(f) special mobile equipment as defined in 61-1-104;

(g) furniture, fixtures, and equipment, except that specifically included in another class, used in commercial establishments as defined in this section;

(h) x-ray and medical and dental equipment;

(i) citizens' band radios and mobile telephones;

(j) radio and television broadcasting and transmitting equipment;

(k) cable television systems;

(l) coal and ore haulers;

(m) theater projectors and sound equipment; and

(n) all other property that is not included in any other class in this part, except that property that is subject to a fee in lieu of a property tax.

(2) As used in this section, "coal and ore haulers" means nonhighway vehicles that exceed 18,000 pounds per axle and that are primarily designed and used to transport coal, ore, or other earthen material in a mining or quarrying environment.

(3) "Commercial establishment" includes any hotel; motel; office; petroleum marketing station; or service, wholesale, retail, or food-handling business.

(4) Class eight property is taxed at 3% of its market value.

~~(5) (a) If, in any year beginning with tax year 2004, the percentage growth in inflation-adjusted Montana wage and salary income is at least 2.85% from the year prior to the base year, then the tax rate for class eight property will be reduced by 1% each year until the tax rate reaches zero.~~

~~—— (b) For each tax year, the base year is the year 3 years before the applicable tax year and the target year is the year 2 years before the applicable tax year.~~

~~—— (c) The department shall calculate the percentage growth in subsection (5)(a) by October 30 of each target year by using the formula $(W/CPI) - 1$, where:~~

~~—— (i) W is the Montana wage and salary income for the calendar base year divided by the Montana wage and salary income for the calendar year prior to the base year; and~~

~~—— (ii) CPI is the consumer price index for the calendar base year used in subsection (5)(c)(i) divided by the consumer price index for the year prior to the most current calendar year prior to the base year used in subsection (5)(c)(i).~~

~~—— (d) For purposes of determining the percentage growth in subsection (5)(a), the department shall use the bureau of economic analysis of the United States department of commerce Montana wage and salary~~

disbursements, fall SA07 (state annual) for the target year wage and salary data series.

~~—— (e) Inflation must be measured by the consumer price index, U.S. city average, all urban consumers (CPI-U), using the 1982-84 base of 100, as published by the bureau of labor statistics of the United States department of labor.~~

~~—— (6) The class eight property of a person or business entity that owns an aggregate of \$5,000 or less in market value of class eight property is exempt from taxation.~~

(5) THE CLASS EIGHT PROPERTY OF A PERSON OR BUSINESS ENTITY THAT OWNS AN AGGREGATE OF \$20,000 OR LESS IN MARKET VALUE OF CLASS EIGHT PROPERTY IS EXEMPT FROM TAXATION. (Repealed on occurrence of contingency--secs. 27(2), 31(4), Ch. 285, L. 1999.)"

Section 2. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) except as provided in 15-24-1203, the property of:

(i) the United States, except:

(A) if congress passes legislation that allows the state to tax property owned by the federal government or an agency created by congress; or

(B) as provided in 15-24-1103;

(ii) the state, counties, cities, towns, and school districts;

(iii) irrigation districts organized under the laws of Montana and not operating for profit;

(iv) municipal corporations;

(v) public libraries; and

(vi) rural fire districts and other entities providing fire protection under Title 7, chapter 33;

(b) buildings, with land that they occupy and furnishings in the buildings, that are owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of the buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for nonprofit health care facilities, as defined in 50-5-101, licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of public health and human services and organized under Title 35, chapter 2 or 3, is not exempt.

(d) property that is:

- 1 (i) owned and held by an association or corporation organized under Title 35, chapter 2, 3, 20, or 21;
- 2 (ii) devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care
- 3 and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and
- 4 (iii) not maintained and operated for private or corporate profit;
- 5 (e) subject to subsection (2), property that is owned or property that is leased from a federal, state, or
- 6 local governmental entity by institutions of purely public charity if the property is directly used for purely public
- 7 charitable purposes;
- 8 (f) evidence of debt secured by mortgages of record upon real or personal property in the state of
- 9 Montana;
- 10 (g) public museums, art galleries, zoos, and observatories that are not used or held for private or
- 11 corporate profit;
- 12 (h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing
- 13 machines, and wearing apparel of members of the family, used by the owner for personal and domestic
- 14 purposes or for furnishing or equipping the family residence;
- 15 (i) truck canopy covers or toppers and campers;
- 16 (j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;
- 17 (k) motor homes;
- 18 (l) all watercraft;
- 19 (m) motor vehicles, land, fixtures, buildings, and improvements owned by a cooperative association or
- 20 nonprofit corporation organized to furnish potable water to its members or customers for uses other than the
- 21 irrigation of agricultural land;
- 22 (n) the right of entry that is a property right reserved in land or received by mesne conveyance
- 23 (exclusive of leasehold interests), devise, or succession to enter land with a surface title that is held by another
- 24 to explore, prospect, or dig for oil, gas, coal, or minerals;
- 25 (o) (i) property that is owned and used by a corporation or association organized and operated
- 26 exclusively for the care of persons with developmental disabilities, persons with mental illness, or persons with
- 27 physical or mental impairments that constitute or result in substantial impediments to employment and that is
- 28 not operated for gain or profit; and
- 29 (ii) property that is owned and used by an organization owning and operating facilities that are for the
- 30 care of the retired, aged, or chronically ill and that are not operated for gain or profit;

(p) all farm buildings with a market value of less than \$500 and all agricultural implements and machinery with a market value of less than \$100;

(q) property owned by a nonprofit corporation that is organized to provide facilities primarily for training and practice for or competition in international sports and athletic events and that is not held or used for private or corporate gain or profit. For purposes of this subsection (1)(q), "nonprofit corporation" means an organization that is exempt from taxation under section 501(c) of the Internal Revenue Code and incorporated and admitted under the Montana Nonprofit Corporation Act.

(r) (i) the first \$15,000 or less of market value of tools owned by the taxpayer that are customarily hand-held and that are used to:

(A) construct, repair, and maintain improvements to real property; or

(B) repair and maintain machinery, equipment, appliances, or other personal property;

(ii) space vehicles and all machinery, fixtures, equipment, and tools used in the design, manufacture, launch, repair, and maintenance of space vehicles that are owned by businesses engaged in manufacturing and launching space vehicles in the state or that are owned by a contractor or subcontractor of that business and that are directly used for space vehicle design, manufacture, launch, repair, and maintenance;

(s) harness, saddlery, and other tack equipment;

(t) a title plant owned by a title insurer or a title insurance producer, as those terms are defined in 33-25-105;

(u) timber as defined in 15-44-102;

(v) all trailers as defined in 61-1-111, semitrailers as defined in 61-1-112, pole trailers as defined in 61-1-114, and travel trailers as defined in 61-1-131;

(w) all vehicles registered under 61-3-456;

(x) (i) buses, trucks having a manufacturer's rated capacity of more than 1 ton, and truck tractors, including buses, trucks, and truck tractors apportioned under Title 61, chapter 3, part 7; and

(ii) personal property that is attached to a bus, truck, or truck tractor that is exempt under subsection (1)(x)(i);

(y) motorcycles and quadricycles;

(z) the following percentage of the market value of residential property described in 15-6-134(1)(e) and (1)(f):

(i) 31% for tax year 2003;

- 1 (ii) 31.4% for tax year 2004;
- 2 (iii) 32% for tax year 2005;
- 3 (iv) 32.6% for tax year 2006;
- 4 (v) 33.2% for tax year 2007;
- 5 (vi) 34% for tax year 2008 and succeeding tax years;
- 6 (aa) the following percentage of the market value of commercial property as described in 15-6-134(1)(g):
- 7 (i) 13% for tax year 2003;
- 8 (ii) 13.3% for tax year 2004;
- 9 (iii) 13.8% for tax year 2005;
- 10 (iv) 14.2% for tax year 2006;
- 11 (v) 14.6% for tax year 2007;
- 12 (vi) 15% for tax year 2008 and succeeding tax years;
- 13 (bb) personal property used by an industrial dairy or an industrial milk processor and dairy livestock used
- 14 by an industrial dairy;
- 15 (cc) items of personal property intended for rent or lease in the ordinary course of business if each item
- 16 of personal property satisfies all of the following:
- 17 (i) the acquired cost of the personal property is less than \$15,000;
- 18 (ii) the personal property is owned by a business whose primary business income is from rental or lease
- 19 of personal property to individuals and no one customer of the business accounts for more than 10% of the total
- 20 rentals or leases during a calendar year; and
- 21 (iii) the lease of the personal property is generally on an hourly, daily, or weekly basis;
- 22 (dd) all manufacturing machinery, fixtures, equipment, and tools used for the production of ethanol from
- 23 grain during the course of the construction of an ethanol manufacturing facility and for 10 years after completion
- 24 of construction of the manufacturing facility; and
- 25 (ee) light vehicles as defined in 61-1-139; ~~and~~
- 26 ~~(ff) the following property, except property included in 15-6-135, 15-6-137, 15-6-141, 15-6-145, and~~
- 27 ~~15-6-156, if the tax rate in 15-6-138 reaches zero:~~
- 28 ~~—— (i) all agricultural implements and equipment;~~
- 29 ~~—— (ii) all mining machinery, fixtures, equipment, tools, and supplies;~~
- 30 ~~—— (iii) all oil and gas production machinery, fixtures, equipment, including pumping units, oil field storage~~

~~tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, gas boosters, and similar equipment that is skidable, portable, or movable, tools, and supplies;~~

~~—— (iv) all manufacturing machinery, fixtures, equipment, tools, and supplies;~~

~~—— (v) all goods and equipment that are intended for rent or lease;~~

~~—— (vi) special mobile equipment as defined in 61-1-104;~~

~~—— (vii) furniture, fixtures, and equipment;~~

~~—— (viii) x-ray and medical and dental equipment;~~

~~—— (ix) citizens' band radios and mobile telephones;~~

~~—— (x) radio and television broadcasting and transmitting equipment;~~

~~—— (xi) cable television systems;~~

~~—— (xii) coal and ore haulers; and~~

~~—— (xiii) theater projectors and sound equipment.~~

(2) (a) For the purposes of subsection (1)(e):

(i) the term "institutions of purely public charity" includes any organization that meets the following requirements:

(A) The organization offers its charitable goods or services to persons without regard to race, religion, creed, or gender and qualifies as a tax-exempt organization under the provisions of section 501(c)(3), Internal Revenue Code, as amended.

(B) The organization accomplishes its activities through absolute gratuity or grants. However, the organization may solicit or raise funds by the sale of merchandise, memberships, or tickets to public performances or entertainment or by other similar types of fundraising activities.

(ii) agricultural property owned by a purely public charity is not exempt if the agricultural property is used by the charity to produce unrelated business taxable income as that term is defined in section 512 of the Internal Revenue Code, 26 U.S.C. 512. A public charity claiming an exemption for agricultural property shall file annually with the department a copy of its federal tax return reporting any unrelated business taxable income received by the charity during the tax year, together with a statement indicating whether the exempt property was used to generate any unrelated business taxable income.

(b) For the purposes of subsection (1)(g), the term "public museums, art galleries, zoos, and observatories" means governmental entities or nonprofit organizations whose principal purpose is to hold

property for public display or for use as a museum, art gallery, zoo, or observatory. The exempt property includes all real and personal property reasonably necessary for use in connection with the public display or observatory use. Unless the property is leased for a profit to a governmental entity or nonprofit organization by an individual or for-profit organization, real and personal property owned by other persons is exempt if it is:

- (i) actually used by the governmental entity or nonprofit organization as a part of its public display;
- (ii) held for future display; or
- (iii) used to house or store a public display.

(3) For the purposes of subsection (1)(bb):

(a) "industrial dairy" means a large-scale dairy operation with 1,000 or more milking cows and includes the dairy livestock and integral machinery and equipment that the dairy uses to produce milk and milk products solely for export from the state, either directly by the dairy or after the milk or milk product has been further processed by an industrial milk processor. After export, any unprocessed milk must be further processed into other dairy products.

(b) "industrial milk processor" means a facility and integral machinery used solely to process milk into milk products for export from the state.

(4) The following portions of the appraised value of a capital investment in a recognized nonfossil form of energy generation or low emission wood or biomass combustion devices, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

- (a) \$20,000 in the case of a single-family residential dwelling;
- (b) \$100,000 in the case of a multifamily residential dwelling or a nonresidential structure."

Section 3. Section 27, Chapter 285, Laws of 1999, is amended to read:

"Section 27. Repealer. ~~(1)~~ Sections 15-6-136, 15-24-901, 15-24-920, 15-24-926, 15-24-927, and 15-24-931, MCA, are repealed.

~~(2) Section 15-6-138, MCA, is repealed."~~

Section 4. Section 31, Chapter 285, Laws of 1999, is amended to read:

"Section 31. Effective dates. (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section] are effective on passage and approval.

(2) [Sections 3 through 9 and 23] are effective July 1, 2000.

(3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(1)] are effective January 1, 2003.

~~(4) [Sections 13(1)(aa) through (1)(ll) and 27(2)] are effective if the tax rate in [section 12], amending 15-6-138, reaches zero."~~

Section 5. Section 5, Chapter 577, Laws of 2003, is amended to read:

"Section 5. Section 31, Chapter 285, Laws of 1999, is amended to read:

"Section 31. Effective dates. (1) [Sections 1, 11, 12, 15, 22, 26, 28 through 30, and 32 and this section] are effective on passage and approval.

(2) [Sections 3 through 9 and 23] are effective July 1, 2000.

(3) [Sections 2, 10, 13, 14, 16 through 21, 24, 25, and 27(1)] are effective January 1, 2003.

~~(4) [Sections 13(1)(aa) through (1)(ll) and 27(2)] are [Section 27(2)] is effective if the tax rate in [section 12], amending 15-6-138, reaches zero."~~

NEW SECTION. **Section 6. Effective date.** [This act] is effective on passage and approval.

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